

COVID-19 PROTOCOL FOR IN-PERSON DEPOSITIONS

General Provisions and Attendance

1. Any in-person deposition must be conducted in conformity with any applicable health regulations and social distancing requirements, and with a paramount focus on ensuring the health and safety of all those participating in the deposition.
2. A witness will not be required to conduct an in-person deposition if he/she is not willing to do so based on health and safety considerations.
3. Any person attending the deposition in-person must complete, in advance of the deposition, a self-evaluation form, attached in the Appendix to this protocol, and must provide that form to the examining attorney prior to commencement of the deposition. No person may attend the deposition in person who has not completed the self-evaluation form prior to commencement of the deposition.
4. All reasonable steps should be taken to limit in-person attendance at depositions to the lawyers taking and defending the deposition, the witness, the court reporter and videographer. Other lawyers should presumptively attend by video or telephone. Video and telephonic participation will be permitted in all depositions.
5. The total number of persons who may attend the deposition in-person will be limited to the number who can attend with suitable social distancing (sitting at least six feet apart).
6. Under no circumstances may more than four lawyers attend any deposition in person on behalf of either (i) defendants collectively or (ii) plaintiffs collectively.
7. Any lawyer who plans to attend the deposition in person must provide notice five business days in advance to the examining lawyer. Any person attending the deposition will be responsible for ensuring that the requirements of Paragraphs 3, 4, 5 and 6 are met, and shall confer with other counsel if for any reason there are questions about the number of lawyers attending in-person. Violations of this protocol will be addressed by the Court.
8. The parties shall stipulate to the location of the deposition. A location in either Huntington, WV or Charleston, WV shall be agreed to at least fourteen days before the deposition is to take place. The parties shall also agree on the cleaning service that will sanitize the location where the deposition is to take place. The cleaning service shall be determined and scheduled at least seven days before the deposition.
9. Masks must be worn by all attendees at all times when the deposition is not in session. Those not speaking regularly during the deposition must wear masks. Each person attending the deposition in-person will be responsible for procuring his or her own mask.
10. Any person attending the deposition in-person is responsible for bringing his or her own food, water and other beverages.
11. Each person attending the deposition in-person will be responsible for ensuring that hand sanitizer is available for his or her own use during the deposition. All persons attending the deposition in-person should use hand sanitizer periodically.
12. Social distancing must be observed at all times, including during breaks in the deposition.

Conduct of the Deposition

1. Each person attending the deposition will be seated at least six feet apart from other attendees, and preferably more.
2. If possible, windows will remain open during the deposition, provided open windows do not disrupt the deposition (for example, through uncomfortable weather or outside noise). The room must be well-ventilated with outside air being circulated through the room to the maximum extent feasible.
3. To avoid having multiple people touching the same documents, separate stacks of exhibits will be prepared for the witness and counsel defending the deposition.
4. All depositions will be conducted to allow participation by telephone and through a secure audio/video conferencing platform that, at a minimum, provides verifiable end-to-end encryption, requires unique user-identity authentication, employs a vendor-moderated “green room” or “lobby” feature, and allows participants to view exhibits remotely.
 - A. All participants who connect to the audio/video platform must connect, through a private, password-protected network. Connection through a public Wi-Fi network is not permitted. Devices to be used for audio/video participation must be secured with appropriate firewalls, VPN, or similar security infrastructure.
 - B. The noticing party shall ensure that technical and other information concerning the technical requirements and security of the proposed audio/video platform is available to all participants on request at least ten days before the deposition.

Appendix -- Self-Evaluation Form

1. The undersigned does not currently have any of the following symptoms:
 - A. Cough
 - B. Shortness of breath, difficulty breathing
 - C. Chills
 - D. Sore throat
 - E. Muscle pain
 - F. Recent loss of taste or smell
 - G. Diarrhea, nausea/vomiting
 - H. Fever (temperature greater than 100.4°F)
2. The undersigned has not had close contact (within 6 feet for more than 15 minutes) within the past 14 days with anyone who is either confirmed or suspected of having COVID-19, or has displayed any of the known symptoms of COVID-19 listed above.
3. The undersigned has not tested positive for COVID-19 in the last 14 days and is not awaiting results of a test for COVID-19.

Dated:_____